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HOUSE BILL 1177

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

THOMAS P. FOY

AN ACT

RELATING TO CRIMINAL LAW; CHANGING AN ELEMENT OF CRIMINAL SEXUAL PENETRATION IN THE SECOND DEGREE AND CRIMINAL SEXUAL PENETRATION IN THE FOURTH DEGREE; AMENDING A SECTION OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 30-9-11 NMSA 1978 (being Laws 1975, Chapter 109, Section 2, as amended) is amended to read:

"30-9-11. CRIMINAL SEXUAL PENETRATION. --

A. Criminal sexual penetration is the unlawful and intentional causing of a person to engage in sexual intercourse, cunnilingus, fellatio or anal intercourse or the causing of penetration, to any extent and with any object, of the genital or anal openings of another, whether or not there is any emission.

B. Criminal sexual penetration does not include

1 medically indicated procedures.

2 C. Criminal sexual penetration in the first degree
3 consists of all sexual penetration perpetrated:

4 (1) on a child under thirteen years of age; or

5 (2) by the use of force or coercion that
6 results in great bodily harm or great mental anguish to the
7 victim.

8 Whoever commits criminal sexual penetration in the first
9 degree is guilty of a first degree felony.

10 D. Criminal sexual penetration in the second degree
11 consists of all criminal sexual penetration perpetrated:

12 (1) on a child thirteen to [~~sixteen~~] seventeen
13 years of age when the perpetrator is in a position of authority
14 over the child and uses this authority to coerce the child to
15 submit;

16 (2) on an inmate confined in a correctional
17 facility or jail when the perpetrator is in a position of
18 authority over the inmate;

19 (3) by the use of force or coercion that
20 results in personal injury to the victim;

21 (4) by the use of force or coercion when the
22 perpetrator is aided or abetted by one or more persons;

23 (5) in the commission of any other felony; or

24 (6) when the perpetrator is armed with a deadly
25 weapon.

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1 Whoever commits criminal sexual penetration in the second
2 degree is guilty of a second degree felony.

3 E. Criminal sexual penetration in the third degree
4 consists of all criminal sexual penetration perpetrated through
5 the use of force or coercion.

6 Whoever commits criminal sexual penetration in the third
7 degree is guilty of a third degree felony.

8 F. Criminal sexual penetration in the fourth degree
9 consists of all criminal sexual penetration not defined in
10 Subsections C through E of this section perpetrated on a child
11 thirteen to [~~sixteen~~] seventeen years of age when the
12 perpetrator is at least eighteen years of age and is at least
13 four years older than and not the spouse of that child.

14 Whoever commits criminal sexual penetration in the fourth
15 degree is guilty of a fourth degree felony. "

16 Section 2. EFFECTIVE DATE. --The effective date of the
17 provisions of this act is July 1, 1997.

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